

Pfizer	Zarontin
Pfizer	Zithromax
Pfizer	Zoloft
Pfizer	Zyrtec
Pharmacia	Adriamycin PFS
Pharmacia	Adriamycin RDF
Pharmacia	Adrucil
Pharmacia	Amphocin
Pharmacia	Amphotericin B
Pharmacia	Bleomycin Sulfate
Pharmacia	Celebrex
Pharmacia	Cleocin-T
Pharmacia	Cytarabine (Cytosar-U)
Pharmacia	Depo-Testosterone
Pharmacia	Etoposide
Pharmacia	Neosar
Pharmacia	Solu-Cortef
Pharmacia	Solu-Medrol
Pharmacia	Toposar
Pharmacia	Vincasar PFS
Schering	Clarinet
Schering	Claritin
Schering	Claritin-D
Schering	Diprolene
Schering	Diprolene AF
Schering	Diprosone
Schering	Elocon
Schering	Eulexin
Schering	Integritin
Schering	Intron-A
Schering	Lotrisone
Schering	Nasonex
Schering	Peg-Intron
Schering	Proventil
Schering	Rebetol
Schering	Sebizon
Schering	Temodar
Schering	Trinalin Rep
Schering	Vanceril
Warrick	Albuterol
Warrick	Clotrimazole

Warrick	Griseofulvin, Ultramicrocry
Warrick	ISMN
Warrick	Oxaprozin
Warrick	Perphenazine
Warrick	Potassium Chloride
Warrick	Sodium Chloride
Warrick	Sulcrafate Tablets
Warrick	Theophylline
Sicor	Acyclovir Sodium
Sicor	Amikacin Sulfate
Sicor	Doxorubicin
Sicor	Etoposide
Sicor	Leucovorin Calcium
Sicor	Pentamidine Isethionate
Sicor	Tobramycin Sulfate
TAP	Prevacid
Watson	Dexamethasone Acetate8
Watson	Dexamethasone Sodium Phosphate
Watson	Diazepam
Watson	Estradiol
Watson	Ferrlecit
Watson	Fluphenazine HCL
Watson	Gemfibrozil
Watson	Gentamicin Sulfate
Watson	Imipramine HCL
Watson	Infed
Watson	Lorazepam
Watson	Nadolol
Watson	Perphenazine2
Watson	Propranolol
Watson	Ranitidine
Watson	Vancomycin HCL
Watson	Verapamil HCL

UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Index No. 01-12257-PBS

In re: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION

, Plaintiff(s)

- against -

, Defendant(s)

State of Washington DC )

) SS.:

County of District of Columbia )

AFFIDAVIT OF SERVICE

Brandon Snesko being duly sworn, deposes and says  
that he is over the age of 18 years; is not a party to this action and resides  
within the State of Washington DC. That on 04/09/2004 at 12:10 PM at:

United Healthcare c/o The Groom Law Group  
1701 Pennsylvania Avenue N.W.  
Washington DC 20006

Deponent served the:

SUBPOENA IN A CIVIL CASE

on United Healthcare c/o The Groom Law Group

a domestic and/or foreign corporation  
by delivering thereat a true copy to Jason Ehrenbert  
personally, deponent knew said corporation so served to be the corporation,  
described in same as said recipient and knew said individual to be the  
Attorney and who stated that they were  
authorized to accept service thereof.

Deponent describes the individual served as follows:

AGE: 37 HEIGHT: 5'7" WEIGHT: 180 HAIR: BROWN RACE: WHITE SEX: MALE

  
Brandon Snesko License #NONE

SWORN TO BEFORE ME 5/06/04

Angela H. Croson

Angela H. Croson  
Notary Public, District of Columbia  
My Commission Expires 3-31-2009

OUR DOC# 1580  
Patterson, Belknap, Webb & Tyler LLP  
1133 Avenue of the Americas  
New York NY 10036  
212-336-2000

# Exhibit 2

Exhibit B

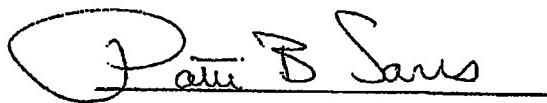
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION                                  } MDL No. 1456  
THIS DOCUMENT RELATIONS TO ALL         } Civil Action No.  
ACTIONS                                      } 01-CV-12257-PBS  
    } Judge Patti B. Saris

**[PROPOSED] ORDER DENYING PLAINTIFFS'  
MOTION FOR A PROTECTIVE ORDER REGARDING  
SUBPOENAS TO PUTATIVE CLASS MEMBERS**

For the reasons stated in open Court at the Status Conference on March 8, 2004,  
Plaintiffs' Motion for a Protective Order Regarding Subpoenas to Putative Class Members  
[Docket No. 632] hereby is DENIED.

Dated: March 8 2004



The Honorable Patti B. Saris

# Exhibit 3

**Patterson Belknap Webb & Tyler LLP**

1133 Avenue of the Americas New York, NY 10036-5710 212.336.2000 fax 212.336.2222 [www.pbwt.com](http://www.pbwt.com)

May 27, 2005

Jessica Golden Cortes  
(212) 336-2017  
Direct Fax (212) 336-7901  
[jgcortes@pbwt.com](mailto:jgcortes@pbwt.com)

**By Email Attachment**

Michael Prame, Esq.  
The Groom Law Group  
1701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

**Re: In re Pharmaceutical Industry AWP Litigation**

Dear Mike:

Per your request, this letter summarizes United Healthcare's outstanding discovery pursuant to defendants' third party subpoena in the AWP Litigation. Defendants have revised and significantly pared down the categories of remaining outstanding discovery sought to facilitate a timely production and to avoid unduly burdening your client. As previously discussed, for purposes of these revised requests, unless otherwise stated, the relevant time period at issue is 1997 to 2002:

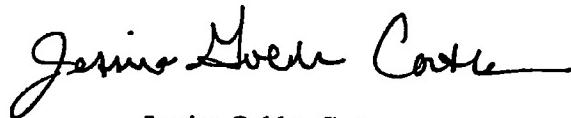
1. To the extent not previously produced, all documents reflecting United Healthcare's understanding of whether health care providers earn a margin on drugs administered.
2. All documents concerning the relative reimbursement or costs for injected or infused drugs (and related treatments or therapies) in the hospital (in or outpatient setting) as compared to in physicians' offices, including United Healthcare's business and strategic plans addressing the optimal site of care for the administration of oncology drugs.
3. To the extent not previously produced, a representative sample of physician reimbursement contracts from your client's showing the various methodologies United Healthcare utilized, and the various levels of reimbursement United Healthcare afforded, for the reimbursement of physician-administered drugs.
  - A. In an effort to allay your previously asserted concerns regarding anticipated costs and required employee time, defendants are willing to limit this request to a production from one major east coast market of United Healthcare and one major west coast market. The determination of the appropriate markets would be determined jointly by United Healthcare and defendants, and agreement to this limitation is contingent upon prompt production.
4. All schedules disclosing the amounts reimbursed to particular physicians for services rendered and drugs administered (*i.e.*, physician "fee schedules") and documents

Michael Prame, Esq.  
May 27, 2005  
Page 2

- detailing how those schedules were calculated or derived. To the extent the fee schedules differ from the electronic schedules or tables used to generate the actual reimbursement amounts paid to physicians, produce all such schedules and tables.
5. All rebate reports or other documentation showing the rebates paid by pharmacy benefit managers or pharmaceutical manufacturers to United Healthcare.
  6. Medical Claims Data from 1997 to the present, including claims submitted by hospitals and physician offices.
    - A. This data should include a field that explains the type of payment methodology utilized to reimburse for a particular claim (e.g., U&C, AWP-based, capitation).
    - B. As we briefly discussed earlier on in these negotiations, please describe how the data is maintained and the estimated cost of retrieval prior to production of the requested data.
    - C. In a further effort to allay your previously asserted concerns regarding anticipated costs and required employee time, defendants are again willing to limit this request to data from one major east coast market and one major west coast market, again, to be determined jointly by United Healthcare and defendants, and again, contingent upon prompt production.
  7. Claims processing manuals corresponding to data produced.
  8. MAC Lists pertaining to retail pharmacy reimbursement for generic drugs.
  9. To the extent not previously produced, all documents your client produced in any other litigation, government investigation or inquiry related to the use of AWP in Medicare, Medicaid or private reimbursement.

Please also identify witness(es) qualified to testify regarding the substance of the above-requested documents and data, and advise me of when in the coming month the witness(es) will be available for deposition(s). I look forward to working with you to achieve a swift resolution of outstanding production issues. Please contact me with any questions.

Very truly yours,



Jessica Golden Cortes

# Exhibit 4

**Mangi, Adeel A. (x2563)**

---

**From:** Mangi, Adeel A. (x2563)  
**Sent:** Friday, September 16, 2005 8:12 PM  
**To:** 'mjp@groom.com'  
**Subject:** RE: Golden Rule and United

Mike: Further to my email of the 13th (below), attached are (draft) copies of the motion to compel papers we plan to file against your clients United and Golden Rule on September 21. We are hereby seeking a meet and confer prior to filing that motion. If you would like to hold such a conference and discuss these issues, please let us know by 3 pm on the 21st, failing which we will make our filing. Separately, I received the mail version of your letter today but it was missing the enclosure (golden rule objections). Please resend those (email pdf is fine).

Regards  
Adeel

-----Original Message-----

**From:** Mangi, Adeel A. (x2563)  
**Sent:** Tuesday, September 13, 2005 5:13 PM  
**To:** 'mjp@groom.com'  
**Subject:** Golden Rule and United

Mike:

Thank you for your letter of today regarding Golden Rule. I am looking into whether objections were previously received at this firm, and will review them when your letter arrives by mail with the enclosure. In any event, I understand you now represent both Golden Rule and United and will be adopting similar positions for both on substantive issues. We are currently preparing a motion to compel against United based on your positions to date and will fold Golden Rule into that discussion. We will send you a draft once the papers are complete. We can then hold a Rule 7.1 discovery conference and proceed with filing the motion if needed.

As to specific point you raise in your letter, please be advised that your contention regarding CMO 13 is incorrect. That schedule is for track 1 defendant discovery. It does not apply to discovery from third parties. Indeed, such discovery is continuing. Please let us know if you have a basis for believing otherwise, so we can include that issue in the motion papers as needed.

Adeel Abdullah Mangi  
Patterson, Belknap, Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, NY 10036  
Ph: (212) 336 2563  
Fax: (212) 336 7947  
aamangi@pbwt.com



BRIEF\_United and Haas Declaration in MOTION\_United  
Golden Rule ... support of... and Golden Rule...

# Exhibit 5

**Mangi, Adeel A. (x2563)**

---

**From:** Mangi, Adeel A. (x2563)  
**Sent:** Friday, September 30, 2005 1:03 PM  
**To:** Michael Prame (mjp@groom.com)  
**Subject:** United and Golden Rule

Mike: Please see attached letter.



united.pdf (155 KB)

Adeel Abdullah Mangi  
Patterson, Belknap, Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, NY 10036  
Ph: (212) 336 2563  
Fax: (212) 336 7947  
aamangi@pbwt.com

**Patterson Belknap Webb & Tyler LLP**

1133 Avenue of the Americas New York, NY 10036-6710 212.336.2000 fax 212.336.2222 [www.pbwt.com](http://www.pbwt.com)

September 30, 2005

By Email Attachment

Adeel A. Mangi  
(212) 336-2563  
Direct Fax (212) 336-7947  
[aamangi@pbwt.com](mailto:aamangi@pbwt.com)

Michael Prame, Esq.  
Groom Law Group  
1701 Pennsylvania Ave., N.W.  
Washington, D.C. 20006-5811

**Re: In Re AWP Litigation**

Dear Mike:

We are writing further to our conversation of September 23, 2005 to provide some of the additional information you requested.

**(1) MAC Lists**

You asked us to check whether defendants' have already obtained United's MAC lists through discovery from PBMs. We checked with counsel coordinating that discovery, who informs us that United's MAC lists were not produced.

**(2) Claims Data**

In your July 12, 2005 letter you represented that United's claims data is housed on the "Galaxy" system and provided the following estimates for collection:

- For data from May 1, 2002 to December 31, 2003 - \$19,750 (current system)
- For data from August 1998 to April 30, 2002: \$30,500 (data archived on tape)
- For data from January 1, 1997 to July 30, 1998: \$26,500 (archived on older system)

Based on these estimates, defendants will seek production of the data for the period August 1998 to April 30, 2002 only. Please provide us with a list of data fields available for pre-collection analysis to ensure that all relevant data is collected and produced in an efficient manner. Please also clarify whether the "Galaxy" system incorporates data from "Inginex" and if not, what data is available from Inginex.

**(3) Deposition Topics**

You stated that United has no objection in principle to the production of a deposition witness but were concerned that the list of deposition topics would require the production of too many witnesses. You asked that defendants again try to focus the list of topics

Michael Prame, Esq.  
September 30, 2005  
Page 2

on which deposition testimony is sought to facilitate the production of witnesses. To that end, we have revised and further focused the list of deposition topics originally sent to you by Jessica Cortes. We will reissue the deposition subpoena listing these topics if you request, otherwise these are incorporated by reference as issued at your request.

As I stated during our call, the vast majority of subpoenaed health plans have previously responded to a much broader list of areas of inquiry through the production of one or two witnesses and the court has found that the production of witnesses on even that broader list of topics is not burdensome. The appropriate witness on the medical side is generally a senior executive with responsibility for contracting negotiations with providers. Defendants reserve the right to seek witnesses to testify on issues pertaining to self administered drugs should an appeal change the current case posture.

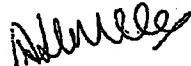
**(4) Golden Rule**

Finally, as to Golden Rule Insurance Co., you represented during our call that Golden Rule had no responsive documents to the subpoena and agreed to state Golden Rule's position in writing with reference to each specific document production category. We look forward to receiving that letter, after which we can decide how to proceed with regard to Golden Rule on the document requests and deposition subpoena.

\* \* \*

As discussed during our call, defendants continue to call for the collection of all other documents identified in our letter of May 27, 2005. I understand you will confirm that production and a schedule after conferring with your client. We look forward to hearing from you.

Sincerely,



Adeel A. Mangi

Michael Prame, Esq.  
September 30, 2005  
Page 3

#### AREAS OF INQUIRY

##### Benchmarks and Reimbursement

1. Your understanding, use, and knowledge of the terms "Average Wholesale Price," "AWP," "Wholesale Acquisition Cost," or "WAC."
2. All methodologies (e.g., capitation, usual and customary charges, AWP-based formula, or use of specialty pharmacies) you utilized or considered utilizing to determine the amounts to pay or reimburse health care providers (e.g., doctors, hospitals, clinics) for drugs administered in physician's offices or hospitals, including the extent to which any reimbursements are tied to the AWPs of specific drugs.
3. All rationales, information, and factors considered by you in deciding whether or not to pay a separate administration fee in addition to the price of the drug itself.
4. Whether and to what extent you provide different reimbursement rates for subject drugs when they are administered in providers' offices rather than in hospitals, including your rationale for doing so or not doing so, and including any studies or analysis you have made concerning the relatives costs of the administration of subject drugs in providers' offices rather than in hospitals.

##### Negotiations with Providers

5. Whether and to what extent you set drug reimbursement for drugs administered and dispensed based on competitive negotiations with health care providers.
6. The substance of such negotiations, including whether and to what extent they expressly dealt with a distinction between the reimbursement of the drug itself and the reimbursement for the medical provider's administration services, or referenced Medicare reimbursement rates.

##### Information Regarding Margins

7. Your understanding, knowledge and expectations (if any) of whether health care providers earn a margin on drugs administered, including whether such a margin depended, in part, on the difference between the reimbursement you paid and the actual acquisition costs for the drugs, net of any incentives provided by the drug manufacturers, and the effect (if any) of such knowledge on the setting of reimbursement rates.
8. Your knowledge and understanding of whether any administration fees you reimbursed to providers were sufficient to cover the provider's costs in administering the corresponding drugs.
9. Your understanding and knowledge of whether drug manufacturers provided health care providers with discounts, rebates and other incentives that were not reported in pricing compendia or otherwise disclosed to the public, including whether or not the published AWP was adjusted to account for these discounts, rebates and other incentives.

Michael Prame, Esq.  
September 30, 2005  
Page 4

10. Your knowledge of government studies, reports, and communications concerning actual acquisition costs for drugs.

**Documents Produced**

11. All documents produced in response to defendants' subpoena, including whether such documents are authentic within the meaning of Rule 901 of the Federal Rules of Evidence, and Records of Regularly Conducted Activity within the meaning of Rule 803(6) of the Federal Rules of Evidence.

# Exhibit 6

10/04/2004 14:18 FAX 2026594503

GROOM LAW GROUP

001

**GROOM  
LAW GROUP**  
*www.groom.com*

**FACSIMILE TRANSMITTAL**

**DATE:** October 4, 2005

**TO:** Adeel Mangi

**COMPANY:** Patterson, Belknap, Webb & Tyler, LLP

**FAX NUMBER:** (212) 336-2222 [08040]

**VOICE NUMBER:**

**FROM:** Mike Frame

**NUMBER OF PAGES:** 3

**Person to contact in case of transmittal problems:** Sheron Fletcher, ext. 419  
(After business hours, please contact Groom Office Services at 202-861-5421.)

**NOTE:**

**NOTICE:** This facsimile transmission is intended only for the use of the addressee and may contain information that is privileged, confidential, or prohibited by law from disclosure. If you have received this transmission but are not the intended recipient, then you are hereby notified that any dissemination, distribution, or copying of this transmission is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone and return the original message to us at the address below via United States Postal Service. Thank You

**FOR INTERNAL USE ONLY:**

Client/Matter Code: 999999-102

User Code:

10/04/2004 14:18 FAX 2026594503

GROOM LAW GROUP

002



Michael J. Prane  
(202) 857-0620  
mjp@groom.com

October 4, 2005

**By Facsimile**

Adeel A. Mangi, Esq.  
Patterson, Belknap, Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, New York 10036-6710

Re: *In re Pharmaceutical Industry Average Wholesale Price Litigation*,  
MDL No. 1456, Civ. No. 01-12257-PBS (U.S.D.C. D. Mass.)

Dear Mr. Mangi:

Thank you for September 30, 2005 letter which follows up on three of the points that we discussed during our September 23, 2005 conversation regarding the subpoenas served on UnitedHealthcare, Inc., United HealthCare Insurance Company, and Golden Rule Insurance Company ("Golden Rule"). We have reviewed the issues that we discussed with our respective clients and provide the following responses.

With respect to the subpoenas served on UnitedHealthcare, Inc. and United HealthCare Insurance Company (collectively "United"), it does not appear that we will be able to reach an agreement as to the scope of additional discovery from these entities. As you know, after more than three months of negotiations last summer regarding the scope of the subpoenas, United produced nearly 24,000 pages of materials. United produced everything that it had agreed to produce to Defendants during the negotiations last year. In standing by its objections to Defendants' continuing efforts to obtain further

10/04/2004 14:18 FAX 2026594503

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Adeel A. Mangi, Esq.

October 4, 2005

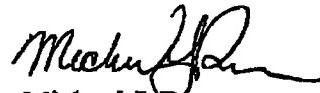
Page 2

discovery, United agrees that the parties have met and conferred in good faith regarding the discovery dispute, but are not able to resolve their differences.

With respect to Golden Rule, we will send to you a letter formalizing Golden Rule's position regarding the lack of documents responsive to Defendants' requests. We hope to forward the letter to you later this week.

Thank you for your consideration.

Very truly yours,

  
Michael J. Frame

# Exhibit 7



**From:** ECFnotice@mad.uscourts.gov  
**Sent:** 11/2/2004 3:52:31 PM  
**To:** CourtCopy@mad.uscourts.gov  
**CC:**  
**BCC:**  
**Subject:** Activity In Case 1:01-cv-12257-PBS Citizens for Consume, et al v. Abbott Laboratories,, et al "Order on Motion to Compel"

\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.

United States District Court  
District of Massachusetts

**Notice of Electronic Filing**

The following transaction was received from Bowler, Marianne entered on 11/2/2004 at 3:52 PM EST and filed on 11/2/2004

**Case Name:** Citizens for Consume, et al v. Abbott Laboratories,, et al  
**Case Number:** 1:01-cv-12257 <https://ecf.mad.uscourts.gov/cgi-bin/DktRpt.pl?77895>

**Document Number:**

Copy the URL address on the line below into the location bar of your Web browser to view the document:

**Docket Text:**

Judge Marianne B. Bowler: Electronic ORDER entered granting in part and denying in part [996] Motion to Compel to the extent set forth in the ruling on Docket Entry # 1088. Electronic Order denying [1068] nonparties' Motion to Quash, consistent with the reasoning employed by the court at the March 8, 2004 status conference. The nonparties are ordered to appear at the noticed depositions which, absent an agreement among all participating entities, shall be taken within the next 30 days. The subject matter shall be item numbers 1-3, 5-7, 11-13, 16-17 and 20-21 as set forth in the list attached to the August 23, 2004 letter (Docket Entry # 170, Ex. F) which reiterates topics encompassed in the list of documents to be produced attached to the re-noticed deposition subpoenas (Docket Entry # 1018, Ex. E-G). As agreed to in open court by defendants, they shall pay the reasonable costs of transportation and related expenses, reasonable attorney's fees and lost income incurred by

witnesses. Electronic Order denying Motion to Compel [1090], in accordance with the prior ruling of Judge Saris on April 26, 2004 (Docket Entry # 818), inasmuch as the prior motion (Docket Entry # 632) requested an accounting of all communications between defendants and putative class members and that motion was denied. (Bowler, Marianne)

The following document(s) are associated with this transaction:

1:01-cv-12257 Notice will be electronically mailed to:  
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<b>Richard D. Raskin</b>	<b>rraskin@sidley.com</b>



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